IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10189 of 2001

Between:

Sri Srinivasa Lime Industries, Rep. by its Prop. A.Srinivasa Rao,
S/o. Venkateswarlu, Piduguralla, Piduguralla Mandalam,
Guntur District.

..... PETITIONER

AND

The Assistant Accounts Officer, Electricity Revenue Office,
Andhra Pradesh Southern Power Distribution Company Limited,
Sattenapalli, Guntur District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction or a writ more particularly a writ in the nature of CERTIORARI to call for the records and to quash the Bill No.634/H.B. dt. 1.5.2001 so far the demanding of fuel charges is concerned from the petitioner for the period 4/97 to 3/98 by declaring the same as illegal, void and without jurisdiction.

Counsel for the Petitioner:MR.G.DHARMA RAO

Counsel for the Respondent.: SMT.M.VINOBHA DEVI, Standing Counsel for A.P. TRANSCO.

The Court made the following :

-

-

-

-

-

-

-

ORDER:

-

Heard the learned counsel for the petitioner and also Sri N.Subba Reddy, Senior Counsel for Smt. M.Vinobha Devi, Standing Counsel appearing on behalf of the respondents.

The petitioner herein, which is a Lime Industries, seeks to assail the impugned demand made towards fuel charges for the period from April, 1997 to March, 1998 and to declare the same has been illegal.

The main ground urged on behalf of the petitioner is that the very demand is barred by limitation since the same is beyond the three years, which is not sustainable. Hence, the writ petition.

Contesting the petitioner's claim, it is contended on behalf of the respondents that it is only as and when the fuel is consumed and the same is assessed, the demand has been made and therefore there is no question of applicability of the period of limitation. Further, the amount demanded is neither towards any penalty nor any consumption as such it is only the costs towards fuel.

Considering the submissions made and on perusal of the material, it is seen that the impugned demand is only towards the fuel charges and the submission that the period of limitation is three years and therefore the impugned demand for the period

April, 1997 to March, 1998 is barred by limitation and cannot possibly be accepted in view of the fact that since the demand is only towards the cost of the charges. Thought he learned counsel for the petitioner sought to place reliance on a decision in **S.L. Kapoor, v. Jagmohan,** which pertains to the case of maintainability and demand made by them. In regard to the fuel charges, since it is only cost expenses, the said principle cannot be made applicable, and further in regard to the maintainability, it has been stated that such period of three years would not have any application. Under the circumstances, I do not find any merits in the above writ petition.

The writ petition is, accordingly, dismissed. No costs.

_____

B. PRAKASH RAO, J

20th January 2005.

Chvn.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1. The Assistant Accounts Officer, Electricity Revenue Office,

Andhra Pradesh Southern Power Distribution Company Limited,
Sattenapalli, Guntur District.

2 Two C.D. copies,.